

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1391

Introduced by Assembly ~~Member~~ *Members Gomez and O'Donnell*

February 27, 2015

An act to amend Sections 51210 and 51223 of the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

AB 1391, as amended, Gomez. Pupil instruction: adopted course of ~~study for grades 1 to 6:~~ *study: elementary school:* physical education: complaints.

Existing law requires the adopted course of study for grades 1 to 6, inclusive, to include instruction in specified areas of study, including physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period. Notwithstanding that provision, existing law provides that instruction in physical education in an elementary school maintaining any of grades 1 to 8, inclusive, shall be for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.

This bill would ~~instead require a total period of time of physical education instruction for pupils in those grades of not less than 400 minutes each 20 schooldays. The bill would~~ authorize a complaint that a school district or county ~~office of education~~ *superintendent of schools* has not complied with the *instructional minute* requirements of the *physical education* adopted course of study for ~~grades 1 to 6, inclusive,~~ *pupils in those grades* to be filed with the school district or county ~~office~~

~~of education superintendent of schools pursuant to the Uniform Complaint Procedures, as specified, and would provide that the Uniform Complaint Procedures shall be the adequate remedy at law for that complaint. specified.~~ To the extent this bill would impose additional duties on school district or county office of education officials, the bill would impose a state-mandated local program.

~~The bill also would specify that state the Legislature's finding and declaration that the provisions prescribing the requirements for the adopted course of study for grades 1 to 6, inclusive, shall not be construed and for instructional time for physical education in an elementary school maintaining any of grades 1 to 8, inclusive, were not intended to create a private right of action, as provided. action, but would provide that nothing in those provisions are to restrict or expand the existing right of any party to seek relief from noncompliance with them pursuant to a writ of mandate.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51210 of the Education Code is amended
2 to read:
3 51210. (a) The adopted course of study for grades 1 to 6,
4 inclusive, shall include instruction, beginning in grade 1 and
5 continuing through grade 6, in the following areas of study:
6 (1) English, including knowledge of, and appreciation for
7 literature and the language, as well as the skills of speaking,
8 reading, listening, spelling, handwriting, and composition.
9 (2) Mathematics, including concepts, operational skills, and
10 problem solving.
11 (3) Social sciences, drawing upon the disciplines of
12 anthropology, economics, geography, history, political science,
13 psychology, and sociology, designed to fit the maturity of the

pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic ~~system~~ *system*, including the role of the entrepreneur and labor; the relations of persons to their human and natural environment; eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.

(4) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on the place of humans in ecological systems.

(5) Visual and performing arts, including instruction in the subjects of dance, music, theatre, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.

(6) Health, including instruction in the principles and practices of individual, family, and community health.

(7) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than ~~400~~ 200 minutes each ~~20~~ 10 schooldays, exclusive of recesses and the lunch period.

(8) Other studies that may be prescribed by the governing board.

(b) (1) A complaint that a school district or county superintendent of schools has not complied with the *instructional minute* requirements of ~~this section~~ *paragraph (7) of subdivision (a)* may be filed with a school district or county superintendent of schools pursuant to the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a school district or county superintendent of schools may appeal the decision to the Superintendent and shall receive a written appeal decision within 60 days of the Superintendent's receipt of the appeal.

(3) If a school district or county superintendent of schools finds merit in a complaint, or the Superintendent finds merit in an appeal, the school district or county superintendent of schools shall provide a remedy to all affected pupils, parents, and guardians.

~~(4) Notwithstanding any other law, the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations~~

1 shall be the adequate remedy at law for allegations of
2 noncompliance with the requirements of this section.

3 (c) This section shall not be construed to create a private right
4 of action. This subdivision clarifies and is declaratory of existing
5 law, and shall apply to any pending claim. *The Legislature finds*
6 *and declares that neither the original provisions of this section,*
7 *nor any subsequent amendments to it, were intended to create a*
8 *private right of action.* However, nothing in this subdivision shall
9 restrict or expand the existing right of any party to seek relief from
10 noncompliance with this section pursuant to a writ of mandate if
11 that party has pursued and exhausted the available administrative
12 remedies, including those specified in subdivision (b): *mandate.*

13 SEC. 2. Section 51223 of the Education Code is amended to
14 read:

15 51223. (a) Notwithstanding the provisions of Sections 51210
16 and 51222, instruction in physical education in an elementary
17 school maintaining any of grades 1 to 8, inclusive, shall be for a
18 total period of time of not less than ~~400~~ 200 minutes each ~~20~~ 10
19 schooldays, exclusive of recesses and the lunch period.

20 (b) (1) *A complaint that a school district or county*
21 *superintendent of schools has not complied with the instructional*
22 *minute requirements of subdivision (a) may be filed with a school*
23 *district or county superintendent of schools pursuant to the*
24 *Uniform Complaint Procedures set forth in Chapter 5.1*
25 *(commencing with Section 4600) of Division 1 of Title 5 of the*
26 *California Code of Regulations.*

27 (2) *A complainant not satisfied with the decision of a school*
28 *district or county superintendent of schools may appeal the*
29 *decision to the Superintendent and shall receive a written appeal*
30 *decision within 60 days of the Superintendent's receipt of the*
31 *appeal.*

32 (3) *If a school district or county superintendent of schools finds*
33 *merit in a complaint, or the Superintendent finds merit in an*
34 *appeal, the school district or county superintendent of schools*
35 *shall provide a remedy to all affected pupils, parents, and*
36 *guardians.*

37 (c) *The Legislature finds and declares that neither the original*
38 *provisions of this section, nor any subsequent amendments to it,*
39 *were intended to create a private right of action. However, nothing*
40 *in this subdivision shall restrict or expand the existing right of any*

1 *party to seek relief from noncompliance with this section pursuant*
2 *to a writ of mandate.*

3 SEC. 3. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

O